

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARY K. JONES, Individually and on Behalf	:	Civil Action No. 1:10-cv-03864-AKH
of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff	:	
	:	[PROPOSED] JOINT PRETRIAL ORDER
vs.	:	
	:	
PFIZER INC., HENRY A. McKINNELL,	:	
JEFFREY B. KINDLER, FRANK	:	
D'AMELIO, ALAN G. LEVIN, IAN C.	:	
READ, and ALLEN WAXMAN,	:	
	:	
Defendants.	:	
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The parties to the above-captioned action respectfully submit this [Proposed] Joint Pretrial Order pursuant to the Court's Individual Rules of Practice in advance of the trial set for January 26, 2015:

I. CAPTION

The full caption of the instant action is set forth above.

II. TRIAL COUNSEL

The names, addresses (including firm names), e-mail addresses and telephone, and facsimile numbers of trial counsel are appended hereto as Exhibit A.

III. SUBJECT MATTER JURISDICTION

The claims asserted arise under §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("1934 Act"), 15 U.S.C. §§78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. §240.10b-50. Subject matter jurisdiction is appropriate pursuant to §27 of the 1934 Act, 15 U.S.C. §78aa, and 28 U.S.C. §1331. Defendants do not dispute subject matter jurisdiction.

IV. SUMMARY OF CLAIMS AND DEFENSES

A brief summary of the claims and defenses to be tried, without recital of evidentiary matter but including citations to all statutes and cases relied on, are appended hereto as Exhibit B (Statement of Claims by Plaintiffs) and Exhibit C (Statement of Defenses by Defendants).

V. PLEADINGS

A copy of the pleadings showing, for each claim and defense, the admissions and denials in this action; and which claims or defenses have been withdrawn or previously determined are appended hereto as Exhibit B.1 (the Answer marked by Plaintiffs) and C.1 (the Complaint marked by Defendants).

VI. JURY TRIAL

The parties agree that the case will be tried by a jury, and that each side (*i.e.*, Plaintiffs (combined) and Defendants (combined)) should be allotted the same amount of trial time. The parties disagree on the number of jurors to be seated and the number of trial days, as follows:

A. Plaintiffs' Position

Plaintiffs propose that this case be tried by a jury of nine jurors. Plaintiffs ask that the Court impose a limit of 60 hours per side, including opening statements, direct examination of witnesses, cross-examination of witnesses, Plaintiffs' rebuttal case (if any), closing arguments and Plaintiffs' rebuttal argument. Assuming six-hour days, the trial would require 20 Court days. Plaintiffs believe that their proposed time limits are reasonable and will promote efficiency by both sides.

B. Defendants' Position

Defendants propose that this case be tried by a jury of twelve jurors. As to the length of the trial, the Court has already determined that issue; the Court has stated (and Defendants agree) that a two- to three-week trial, sitting four days a week, is appropriate. 7/7/2014 Tr. 7:10; *id.* at 33:14-19. Defendants therefore request that the case be tried in ten (10) trial days. Assuming 4.5 hours of trial time each day (based on the Court's standard start/stop times and breaks), for a total of 45 trial hours, the Court should impose a limit of 22.5 hours per side, including opening statements, direct examination of witnesses, cross-examination of witnesses, Plaintiffs' rebuttal case (if any), closing arguments and Plaintiffs' rebuttal argument.

VII. TRIAL BY MAGISTRATE JUDGE

The parties have not consented to trial of this case by a magistrate judge.

VIII. STIPULATION OF FACTS

All stipulations and agreed statements of fact and law are appended hereto as Exhibit D. The undisputed facts are stipulated to be true and as to which proof is accordingly unnecessary. The

inclusion of facts in this statement shall not be deemed a concession by any party as to the relevance of those facts.

IX. WITNESSES

The parties' witness lists and an indication of whether such witnesses will testify in person or by deposition, along with the precise portions of deposition transcripts intended to be introduced along with any cross-designations and objections by any of the parties are appended hereto as Exhibit B.2 (Plaintiffs' witnesses), Exhibit B.3 (Plaintiffs' objections), C.2 (Defendants' witnesses), and Exhibit C.3 (Defendants' objections).

X. EXHIBITS

The parties' exhibit lists are appended hereto as Exhibit B.4 (Plaintiffs' Exhibits marked by numbers) and C.4 (Defendants' Exhibits marked by letters). Exhibits which no party objects to on the grounds of authenticity are noted by an (*) and exhibits which no party objects to on any ground are marked with a (**).

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* * *

ORDER

IT IS SO ORDERED.

DATED: _____

THE HONORABLE ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2015, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 2, 2015.

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